

## STATE OF INDIANA

ERIC J. HOLCOMB, Governor

# PUBLIC ACCESS COUNSELOR LUKE H. BRITT

Indiana Government Center South 402 West Washington Street, Room W470 Indianapolis, Indiana 46204-2745 Telephone: (317)234-0906

> Fax: (317)233-3091 Toll Free:1-800-228-6013 Email: pac@in.gov/opac Website: www.IN.gov/pac

### OPINION OF THE PUBLIC ACCESS COUNSELOR

DONALD P. FEICHT,	)
Complainant	) )
<b>v.</b>	) 17-FC-104
LAKE COUNTY AUDITOR	) )
Respondent	, )

### ADVISORY OPINION June 12, 2017

This advisory opinion is in response to the formal complaint alleging the Lake County Treasurer, Auditor, and Office of the Attorney to the Board of Commissioners violated the Access to Public Records Act ("APRA"), Indiana Code section 5-14-1.5-1 et. seq. This office notified the various Respondents of the complaint on May 4, 2017. Tramel Raggs, Esq., responded on behalf of all three offices. His response was received by this office on May 22, 2017. Pursuant to Indiana Code section 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on April 28, 2017.

#### **BACKGROUND**

The formal complaint filed on April 28, 2017, alleges the Respondents violated the APRA by improperly denying access to public records and by refusing to respond to a records request. On April 5, 2017, the Complainant made a written request to the Respondents seeking "copies of all checks issued to George Uzelac & Associates, Inc. including, but not necessarily limited to all supporting detail of said refunds indicating the taxpayer for whom the refund was issued and the supporting County Form 17T for each individual refund issued."

The Auditor issued a statement in response indicating there was no such vendor in his system to search for responsive records. The Office of the Attorney to the Board of Commissioners responded by citing a



## STATE OF INDIANA

**ERIC J. HOLCOMB, Governor** 

# PUBLIC ACCESS COUNSELOR LUKE H. BRITT

Indiana Government Center South 402 West Washington Street, Room W470 Indianapolis, Indiana 46204-2745 Telephone: (317)234-0906

> Fax: (317)233-3091 Toll Free:1-800-228-6013 Email: pac@in.gov/opac Website: www.lN.gov/pac

lack of reasonable particularity. If the request was narrowed down to a specific parcel, taxpayer or year, it may be able to be fulfilled. Otherwise the request would be deemed denied. The Complainant narrowed his request on April 17 seeking "all checks, including check stubs, issued to George Uzelac & Associates, Inc., without further qualification, between the period 01/01/2006 and 12/31/2015." After a search, the Office of the Attorney concluded there were no records responsive to the request.

#### **ANALYSIS**

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." *See Indiana Code § 5-14-3-1*. The Lake County Government, as a political subdivision, is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)*. Accordingly, any person has the right to inspect and copy Lake County's disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. *See Indiana Code § 5-14-3-3(a)*.

This Office does not consider any of the requests submitted by the Complainant to meet any ascertainable standard of reasonable specificity pursuant to Ind. Code § 5-14-3-3. To its credit, however, Lake County made a good faith search for the records. In my estimation, this goes above and beyond its statutory duty. No records were found, however, and a public agency does not have to create records which do not exist.

#### **CONCLUSION**

Based on the foregoing, it is the Opinion of the Indiana Public Access Counselor that the Lake County Government did not violate the Access to Public Records Act.

Regards,

Luke H. Britt

**Public Access Counselor** 

Cc: Mr. Tramel Raggs, Esq.